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5 Attorneys for Petitioner
6 ALEXANDER BALBUENA

7
8 IN THE UNITED STATES DISTRICT COURT
9

10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 ALEXANDER BALBUENA,) No. C 11-0228 RS
12)
Petitioner,)
13)
V.) STIPULATION TO EXTEND
14) TIME FOR PETITIONER TO
MARTIN BITER, Warden, and THE CALIFORNIA) FILE 60(b) MOTION AND
15) ATTORNEY GENERAL,) ~~proposed~~ ORDER
16)
Respondents.)
17)

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19 The parties hereby STIPULATE that petitioner, Alexander Balbuena, through counsel,
20 Scott A. Sugarman, Sugarman & Cannon, may extend the time to file a motion under Rule 60(b) of
21 the Federal Rules of Civil Procedure for 30 days, up to and including May 7, 2014, beyond the
22 filing date of April 7, 2014, previously set by this Court.
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25 On January 14, 2011, Alexander Balbuena (“Balbuena) *pro se* filed a timely petition for
26 writ of habeas corpus in this Court in this docket. On May 25, 2012, this Court denied that
27 petition in its entirety, and denied Balbuena’s request for a Certificate of Appealability. On May
28 23, 2013, the United States Court of Appeals for the Ninth Circuit issued a Certificate of

1 Appealability on whether Balbuena's statement had been voluntary or the product of police
2 coercion:

3 [whether the trial court] violated appellant's right to due process by denying his
4 motion to suppress his confession on the ground that it was an involuntary
product of police coercion.

5 No. 12-1641, Dkt. 7. The Court of Appeals further directed that counsel be appointed for
6 Balbuena.

7 Thereafter, Balbuena, through counsel, filed in the Court of Appeals a Motion to Stay
8 Appeal and Remand to this Court to permit Balbuena to address an issue not raised in his habeas
9 petition in this Court. Balbuena argued that Balbuena's statement/confession, which was
10 introduced at his trial, was obtained in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966) and
11 its progeny, including *United States v. Bland*, 908 F.2d 471 (9th Cir. 1990). On October 17,
12 2013, after receiving briefing from the parties, the Court of Appeals denied Balbuena's Motion
13 for Stay without prejudice to filing a renewed motion for stay accompanied by a written
14 declaration that this Court was willing to entertain a motion to re-open proceedings in this action.
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16 On November 1, 2013, Balbuena filed in this Court an Application for a Written
17 Indication. On November 7, 2013, this Court issued an Order re: Application for Written
18 Indication, providing that this Court would entertain a motion to amend the petition to add a new
19 claim in the habeas proceeding. No. C 11-0228 RS, Dkt. 27. The next day, Balbuena notified
20 the Court of Appeals of this Court's Order. No. 12-16414, Dkt. 23.

21 On November 22, 2013, Balbuena filed a renewed Motion for Stay and to Hold in
22 Abeyance the Pending Appeal, accompanied by this Court's Order regarding a Written
23 Indication. No. 12-16414, Dkt. 26. On December 30, 2013, the Court of Appeals granted that
24 Motion and remanded this matter to this Court to consider Balbuena's Motion under Rule 60(b).

1 On January 6, 2014, this Court issued an Order setting a briefing schedule for Balbuena's
2 Motion under Rule 60(b), directing that Balbuena file that Motion on or before March 7, 2014,
3 and setting deadlines for subsequent pleadings. In that Order, the Court noted that a reasonable
4 request for extension of time will be granted upon a showing of good cause if such request was
5 filed on or before the deadline set. On Stipulation of the parties and for good cause, this Court
6 re-set the briefing schedule so that Balbuena's Motion is now due April 7, 2014.
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8 Balbuena, through counsel, now seeks, with the concurrence of respondent, an additional
9 30 days to file a Motion under Rule 60(b).

10 As noted in the prior Stipulation filed by counsel, undersigned counsel was provided by
11 Balbuena's prior attorney with three banker boxes of materials related to the state proceedings in
12 the trial and appellate courts (such as transcripts of the trial, investigative reports and interviews).
13 Undersigned counsel has now reviewed most, but not all of those records. Such records will be
14 relevant to the Rule 60(b) Motion and related proceedings in this Court.
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16 As further good cause to an extension of time, in addition to representing Balbuena,
17 undersigned counsel is representing 40 to 50 other clients in California and federal courts, in the
18 trial courts or on appeal. For those clients, counsel for Balbuena has very recently filed, *inter*
19 *alia*, a 26-page Motion/Memorandum for Discovery related to Brady/Giglio material, a 15-page
20 Reply to the Opposition to that Motion, a 12-page Opposition to Motion to Quash Subpoena
21 Duces Tecum, 10-page Motion/Memorandum to Suppress Evidence, 15-page
22 Motion/Memorandum to Sever Defendants and/or Dismiss Charges, and 9-page
23 Motion/Memorandum for Bail.
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1 Counsel for respondent and counsel for petitioner STIPULATE that the date by which
2 petitioner may file his Rule 60(b) Motion may be extended 30 days up to and including May 7,
3 2014. The parties further stipulate that the filing dates for subsequent pleadings may be similarly
4 extended: respondent's response due on or before July 7, 2014, and petitioner's reply, if any, on
5 or before August 7, 2014.

6 IT IS SO STIPULATED.
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8 DATED: April 3, 2014

/s/

9
10 Jill Marietta Thayer
11 Deputy Attorney General
12 Attorney for Respondent

13 DATED: April 3, 2014

/s/

14 Scott A. Sugarman
15 Attorney for Alexander Balbuena

16 SO ORDERED.
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18 DATE: 4/8/14

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RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE